



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2017–N180; FXES11140100000–178–FF01E00000]

Draft Safe Harbor Agreement and Receipt of Application for an Enhancement of Survival Permit for the Kamehameha Schools; Keauhou and Kilauea Forest Lands, Hawaii Island, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Kamehameha Schools (KS), a private charitable education trust, for an enhancement of survival permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The permit application includes a draft Safe Harbor Agreement (SHA) between KS, the Service, and the Hawaii Department of Land and Natural Resources (DLNR). Kamehameha Schools is proposing to conduct proactive conservation activities to promote the survival and recovery of 32 federally endangered species and one species

currently proposed for listing (“covered species”) across the Keauhou and Kilauea Forest Lands, which comprise 32,280 acres on the southeastern slope of Mauna Loa, Hawaii Island. We invite comments from all interested parties on the permit application, including the draft SHA and a draft environmental action statement (EAS) prepared pursuant to the requirements of the National Environmental Policy Act (NEPA).

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Kamehameha Schools – Keauhou and Kilauea Forest Lands SHA, draft EAS, and the proposed issuance of the Permit:

- *Internet:* Documents may be viewed on the internet at <http://www.fws.gov/pacificislands/>.
- *Email:* KamehamehaSchoolsSHA@fws.gov. Include “Kamehameha Schools SHA and draft EAS” in the subject line of the message.
- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Honolulu, HI 96850.
- *Fax:* 808–792–9581, Attn: Field Supervisor. Include “Kamehameha Schools SHA and draft EAS” in the subject line of the message.

- *In-Person Drop-off, Viewing, or Pickup:* Comments and materials received will be available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Honolulu, Hawaii 96850. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Bogardus (Maui Nui and Hawaii Island Team Manager) or Ms. Donna Ball (Hawaii Island Fish and Wildlife Biologist), U.S. Fish and Wildlife Service (see **ADDRESSES**), by telephone at 808–792–9400. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Under a SHA, participating landowners undertake management activities on their property to enhance, restore, or maintain habitat conditions for species listed under the ESA (16 U.S.C. 1531 *et seq.*) to an extent that is likely to result in a net conservation benefit for the covered listed species. A SHA, and the associated permit issued to participating landowners pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the participating landowners that they will not be subjected to

increased property use restrictions as a result of their efforts to either attract listed species to their property, or to increase the numbers or distribution of listed species already on their property.

The SHA and its associated permit allow the property owner to alter or modify the enrolled property back to agreed-upon pre-permit baseline conditions at the end of the term of the permit, even if such alteration or modification results in the incidental take of a listed species. The baseline conditions must reflect the known biological and habitat characteristics that support existing levels of use of the enrolled property by species covered in the SHA. The authorization to take listed species is contingent on the property owner complying with obligations in the SHA and the terms and conditions of the permit. The SHA's net conservation benefits must be sufficient to contribute, either directly or indirectly, to the recovery of the covered listed species. Enrolled landowners may make lawful use of the enrolled property during the term of the permit and may incidentally take the listed species named on the permit in accordance with the terms and conditions of the permit.

Permit application requirements and issuance criteria for enhancement of survival permits for SHAs are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(c). The Service's Safe Harbor Policy (64 FR 32717, June 17, 1999) and the Safe Harbor Regulations (68 FR 53320, September 10, 2003; and 69 FR 24084, May 3, 2004) are available at <http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html>.

Kamehameha Schools – Keauhou and Kilauea Forest Lands Safe Harbor

Agreement

The Service has received a permit application from KS to authorize incidental take of the covered species with implementation of the SHA. The permit application includes a draft SHA between KS, the Service, and Hawaii DLNR. The conservation objective of the SHA is to promote recovery of the following Federal- and State-endangered birds: the Hawaii Creeper (*Loxops mana*); Hawaii Akepa (*Loxops coccineus*); Akiapolaau (*Hemignathus wilsoni*); Io (Hawaiian Hawk; *Buteo solitarius*); Nene (Hawaiian Goose; *Branta sandvicensis*); Alala (Hawaiian Crow; *Corvus hawaiiensis*); Hawaiian Hoary Bat (Opeapea; *Lasiurus cinereus semotus*); and 25 endangered plant species (collectively referred to as the “covered species”) through habitat restoration and management practices (Table 1), as well as the Iiwi (*Vestiaria coccinea*), a species proposed for listing as threatened. The activities implemented under this SHA will aid in increasing the current range of the covered species, restoring these species to part of their historic ranges, increasing the total population of these species, and reestablishing wild populations of these species, thus contributing to their overall recovery. Implementation of the SHA is also likely to reduce habitat fragmentation by connecting a network of protected and managed State, Federal, and private lands within the south central region of Hawaii Island and is also likely to benefit other native species.

Of the covered species, all but one of the wildlife species currently occur on the property. The Alala is currently extirpated in the wild, but survives through an intensive captive breeding program and partnership between the San Diego Zoo, the Service, and Hawaii DLNR. The Alala will be reintroduced to the wild in November 2016 on State-

owned lands adjacent to Keauhou and Kilauea Forest. It is likely that released Alala will disburse beyond the release site and enter the enrolled property under the SHA. Of the covered plant species, eight currently occur on the enrolled property. The remaining covered plant species are known to have historically occurred in the region, and may become re-established on the enrolled property through habitat enhancement and restoration activities described in the SHA, or may be outplanted on the enrolled property over the term of the SHA and permit.

Table 1. Wildlife species covered under the Kamehameha Schools – Keauhou and Kilauea Forest Lands Safe Harbor Agreement.

Species	Status Federal/State	State Population Estimate	Current Distribution by Island
Akiapolaau, (<i>Hemignathus wilsoni</i>)	Endangered	1,900	Hawaii
Hawaii Creeper, (<i>Loxops mana</i>)	Endangered	14,000	Hawaii
Hawaii Akepa (<i>Loxops coccineus</i>)	Endangered	12,000	Hawaii
Iiwi (<i>Vestiaria coccinea</i>)	Petitioned for Listing	>300,000	Hawaii, Maui, Kauai, Molokai, Oahu
Io, Hawaiian Hawk (<i>Buteo solitarius</i>)	Endangered	1,200	Hawaii
Alala, Hawaiian Crow (<i>Corvus hawaiiensis</i>)	Endangered	135 individuals in captivity	Extinct in the wild
Nene, Hawaiian Goose (<i>Branta sandvicensis</i>)	Endangered	2500	Hawaii, Maui, Kauai, Molokai, Oahu
Opeapea, Hawaiian Hoary Bat (<i>Lasiurus cinereus semotus</i>)	Endangered	Widely distributed but population unknown	Hawaii, Maui, Kauai, Molokai, Oahu

Table 2. Plant species covered under the Kamehameha Schools – Keauhou and Kilauea Forest Lands Safe Harbor Agreement.

Species	Status Federal/State	Current Distribution by Island	Current Presence on the Enrolled Property
<i>Asplenium peruvianum</i> var. <i>insulare</i>	Endangered	Hawaii, Maui	Present
<i>Clermontia lindseyana</i> , Oha wai	Endangered	Hawaii, Maui	Present
<i>Cyanea shipmanii</i> , Haha	Endangered	Hawaii	Present
<i>Cyanea stictophylla</i> , Haha	Endangered	Hawaii	Present
<i>Phyllostegia racemosa</i> , Kiponapona	Endangered	Hawaii	Present
<i>Phyllostegia velutina</i>	Endangered	Hawaii	Present
<i>Plantago hawaiiensis</i>	Endangered	Hawaii	Present
<i>Vicia menziesii</i>	Endangered	Hawaii	Present
<i>Argyroxiphium kauens</i> , Ahinahina	Endangered	Hawaii	Not Present
<i>Clermontia peleana</i> , Oha	Endangered	Hawaii, Maui	Not Present
<i>Cyanea tritomantha</i> , Aku	Endangered	Hawaii	Not Present
<i>Cyrtandra giffardii</i> , Haiwale	Endangered	Hawaii	Not Present
<i>Cyrtandra tintinnabula</i> , Haiwale	Endangered	Hawaii	Not Present
<i>Hibiscadelphus giffardianus</i> , Hau kuahiwi	Endangered	Hawaii	Not Present
<i>Joinvillea ascendens</i> , Ohe	Endangered	Hawaii, Maui, Kauai, Molokai, Oahu	Not Present
<i>Melicope zahlbruckneri</i> , Alani	Endangered	Hawaii	Not Present
<i>Neraudia ovata</i>	Endangered	Hawaii	Not Present

<i>Nothocestrum breviflorum</i> , Aiea	Endangered	Hawaii	Not Present
<i>Phyllostegia floribunda</i>	Endangered	Hawaii	Not Present
<i>Phyllostegia parviflora</i>	Endangered	Hawaii, Maui, Oahu	Not Present
<i>Ranunculus hawaiiensis</i> , Makou	Endangered	Hawaii, Maui	Not Present
<i>Sicyos alba</i> , Anunu	Endangered	Hawaii	Not Present
<i>Sicyos macrophyllus</i> , Anunu	Endangered	Hawaii	Not Present
<i>Silene hawaiiensis</i>	Endangered	Hawaii	Not Present
<i>Stenogyne angustifolia</i>	Endangered	Hawaii, Maui, Molokai	Not Present

The land area covered by the SHA and permit (“enrolled property”) encompasses 32,280 acres on the southeastern slope of Mauna Loa on the island of Hawaii. The enrolled property is bounded by Federal lands to the west and south (Hawaii Volcanoes National Park), State lands to the east (Puu Makaala Natural Area Reserve) and north (Mauna Loa Forest Reserve), and State-leased lands to the north (Kipuka Ainahou Nene Sanctuary). Kamehameha Schools’ management and stewardship practices have contributed to preserving some of the last remaining intact native forests in Hawaii. Keauhou Forest and Kilauea Forest support native habitat for numerous endangered species. A portion of the enrolled property, Kilauea Forest, has been largely unaltered and has long been recognized for its native bird populations. The area within the Keauhou boundary was formerly altered by ranching and logging operations. Currently no cattle ranching operations exist, and both Keauhou and Kilauea are managed to preserve and restore the native forests via ungulate removal, reforestation, and out-plantings of native and rare species. In addition to native forest restoration activities,

portions of Keauhou (but not Kilauea) will include forest management practices for the purposes of sustainably harvesting native hardwoods. These efforts implemented by KS are expected to result in a further increase in biodiversity in the region. In addition, KS continues to provide educational opportunities to promote the conservation of healthy native ecosystems.

Covered activities associated with the SHA include: (1) Removal of invasive predators; (2) habitat restoration and native plant community outplantings; (3) koa silviculture; (4) ungulate fence installation/maintenance and ungulate control; (5) invasive weed control; (6) fire threat management; (7) response efforts for Rapid Ohia Death; and (8) other activities on the enrolled property that are not likely to result in take of the covered species due to the incorporation of take avoidance and minimization measures. All of the covered activities are associated with enhancement of the native forest, and will result in a net benefit to each of the covered species. If issued, the permit would authorize incidental take of the covered species that may occur as a result of the covered activities. Incidental take associated with the implementation of the SHA is anticipated to be very low due to the incorporation of significant take avoidance and minimization measures for each covered activity. Both the SHA and the permit are proposed for a term of 50 years.

Kamehameha Schools is simultaneously applying to the Hawaii DLNR for an Incidental Take License (ITL) under the Hawaii Endangered Species Law (Hawaii Revised Statutes § 195D). The draft SHA serves as the basis for permit and ITL decisions by the Service and the Hawaii DLNR, respectively. Kamehameha Schools worked closely with the Service and DLNR to develop the SHA.

The Service's Proposed Action

The Service proposes to enter into the SHA and to issue a permit to KS authorizing incidental take of the covered species caused by covered activities, if permit issuance criteria are met. Both the SHA and the permit would have a term of 50 years.

Due to the difficulty in monitoring individuals of some of the covered species, occupied habitat has been used to establish baseline conditions for the Hawaiian forest birds, the Hawaiian hawk, and Hawaiian hoary bat. The baseline for the Hawaiian forest birds, including the Akiapolaau, Hawaii Creeper, Hawaii Akepa, and Iiwi, is represented by the extent of their current occupied habitat, determined to be forest habitat with a tree cover of closed canopy, open canopy, scattered trees and very scattered trees for a total of 4,162 acres. The baseline for the Hawaiian Hawk and Hawaiian hoary bat is defined as 18,517 acres of open or closed canopy tree cover across the enrolled property, of which a majority is native dominated koa and ohia trees.

The baseline determination for the Nene is based on weekly surveys conducted by Hawaii DLNR on the enrolled property and surrounding lands. While Nene occasionally transit the property, there are no breeding Nene on the enrolled property; therefore the baseline is set at zero individuals. Alala are currently extirpated from the wild so none occur on the enrolled property. Therefore, the baseline for the Alala under the SHA is set at zero individuals.

Baseline conditions for each of the listed plant species are based on comprehensive surveys that occurred on the enrolled property in 2007 (Table 3). Eight listed plant species are currently known to exist on the enrolled property.

Seventeen of the plant covered species are not currently known to be present on the enrolled property. These plants were determined to either have the potential to spread naturally onto the enrolled property or be reintroduced by KS in the future. The baseline for these plants is zero.

Table 3. Summary of baselines (expressed in terms of individual plants) for covered plant species under the SHA.

Species	SHA Baseline
<i>Asplenium peruvianum</i> var. <i>insulare</i>	128
<i>Clermontia lindseyana</i> , Oha wai	24
<i>Cyanea shipmanii</i> , Haha	463
<i>Cyanea stictophylla</i> , Haha	104
<i>Phyllostegia racemosa</i> , Kiponapona	4
<i>Phyllostegia velutina</i>	38
<i>Plantago hawaiiensis</i>	1
<i>Vicia menziesii</i>	27
<i>Argyroxiphium kauens</i> , Ahinahina	0
<i>Clermontia peleana</i> , Oha	0
<i>Cyanea tritomantha</i> , Aku	0
<i>Cyrtandra giffardii</i> , Haiwale	0
<i>Cyrtandra tintinnabula</i> , Haiwale	0
<i>Hibiscadelphus giffardianus</i> , Hau kuahiwi	0
<i>Joinvillea ascendens</i> , Ohe	0
<i>Melicope zahlbruckneri</i> , Alani	0
<i>Neraudia ovata</i>	0
<i>Nothocestrum breviflorum</i> , Aiea	0
<i>Phyllostegia floribunda</i>	0
<i>Phyllostegia parviflora</i>	0
<i>Ranunculus hawaiiensis</i> , Makou	0
<i>Sicyos alba</i> , Anunu	0
<i>Sicyos macrophyllus</i> , Anunu	0

<i>Silene hawaiiensis</i>	0
<i>Stenogyne angustifolia</i>	0

Under the SHA, the conservation benefits for the covered species are expected to be realized through implementation of all of the covered activities including: (1) Removal of invasive predators; (2) habitat restoration and native plant community outplantings; (3) koa silviculture; (4) ungulate fence installation/maintenance and ungulate control; (5) invasive weed control; (6) fire threat management; (7) response efforts for Rapid Ohia Death; and (8) other activities. Additionally, KS will execute a right of access for Alala monitoring and predator control. The SHA will also connect a variety of high-quality National Park and State-owned protected lands, which will promote an increase of forest connectivity, covered species populations and their distributions.

Kamehameha Schools will be required to monitor the covered species and baseline conditions according to schedule outlined in the SHA. Some covered species surveys have been conducted by partners of KS in the past; these partners may continue to assist KS in meeting their monitoring obligations under the SHA and permit.

Incidental take of the forest birds (the Akiapolaau, Hawaii Creeper, Hawaii Akepa, and the Iiwi) may occur in the form of harm or harassment from noise, visual disturbance, or removal of trees in a portion of the property from koa silviculture activities and weed control. Weed control is likely to result in low levels of take of the Hawaiian hawk and the nene in the form of harassment. Habitat restoration, installation of new fences, and weed control activities may result in the loss or destruction of individuals of covered plant species (outplants, propagules), with the exception of three special-concern species (*Vicia menziesii*, *Phyllostegia racemosa*, and *Cyanea*

stictophylla), for which additional measures have been incorporated into the SHA to fully avoid any adverse effects from these activities. Additionally, due to the ephemeral nature of some of the plant species life histories, individual plants may be missed during surveys, resulting in their loss or degradation caused by covered activities. The impact of this loss is anticipated to be minor or negligible to the survival and recovery of the covered species. No incidental take of the Hawaiian hoary bat, Alala, or the three special-concern plant species are anticipated to occur as a result of the covered activities.

Net Conservation Benefit

The Service anticipates that the SHA will result in the following benefits to the covered species: (1) Establishment of new populations and/or habitat where they do not currently exist; (2) an increase in the current range of wild populations; (3) opportunities to increase genetic diversity of the species; (4) a reduction of forest fragmentation and an increase in habitat connectivity through habitat restoration, enhancement, and creation efforts; (5) an increase in habitat connectivity by creating a habitat “bridge” between large protected areas; and (6) protection and maintenance of current levels of occupied nesting and foraging habitats. For these reasons, the cumulative impact of this SHA and the activities it covers, which would be facilitated by the allowable incidental take, is likely to provide a net conservation benefit to the covered species.

For the reasons discussed above, the conservation measures implemented under this SHA are likely to enhance, create, and conserve habitat for the long-term recovery of the covered species. Through this SHA, KS will provide a large expanse of suitable

habitat that is fenced and free from ungulates for the benefit of multiple animal and plant species to increase their range and populations. The 50-year duration of the SHA and permit is considered to be sufficient to establish and maintain these goals.

The management activities to be implemented pursuant to the SHA directly support recovery actions and conservation objectives outlined in conservation and recovery plans for the covered species (USFWS 1984a, USFWS 1984b, USFWS 1996, USFWS 1998a, USFWS 1998b, USFWS 1998c, USFWS 2004, USFWS 2006, USFWS 2009, Hawaii DLNR 2015, and Fraiola and Rubenstein 2007) including: protection, management, restoration, and conservation of suitable and known occupied habitat; ungulate control; alien species control; and re-establishment of connectivity of currently fragmented habitats.

National Environmental Policy Act Compliance

A decision by the Service to enter into the proposed SHA and to issue the proposed permit are Federal actions that trigger the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA). We have made a preliminary determination that the proposed SHA and permit actions are eligible for categorical exclusion under NEPA. The basis for our preliminary determination is contained in the EAS, which is available for public review (see **ADDRESSES**).

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, new information, or comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party via this notice on our proposed Federal action. In particular, we request information and comments regarding:

- (1) Whether the implementation of the proposed SHA would provide a net conservation benefit to the covered species;
- (2) Other conservation measures that would lead to a net-conservation benefit for the covered species;
- (3) The length of the proposed term of the permit;
- (4) The direct, indirect, and cumulative effects that implementation of the SHA could have on the human environment;
- (5) Other plans, projects, or information that might be relevant to evaluating the effects of this proposed action; and
- (6) Information regarding the adequacy of the proposed SHA pursuant to the requirement for permits at 50 CFR parts 13 and 17.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your

personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we use in preparing the EAS, will be available for public inspection by appointment, during normal business hours, at our Pacific Islands Field Office (see **ADDRESSES**).

Next Steps

We will evaluate the permit application, associated documents, and public comments in reaching a final decision on whether the permit application and the EAS meet the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA, respectively. The SHA and EAS may change in response to public comments. We will also evaluate whether the proposed permit action complies with section 7 of the ESA by conducting an intra-Service section 7 consultation on the proposed action. We will use the results of this consultation, in combination with our findings on whether the application meets issuance criteria, in our final analysis to determine whether or not to issue the proposed permit. If we determine that all requirements are met, we will sign the proposed SHA and issue the permit under the authority of section 10(a)(1)(A) of the ESA to KS for incidental take of the covered species caused by covered activities that are implemented in accordance with the terms of the permit and the SHA. We will not make our final decision until after the end of the 30-day public comment period, and we will

fully consider all comments and information we receive during the public comment period.

Authority

We provide this notice pursuant to: section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22); and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Theresa Rabot,
Deputy Regional Director,
Pacific Region, U.S. Fish and Wildlife Service,
Portland, Oregon.**

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